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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/004,900

11/02/2001

Harry E. Gruber

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05/04/2006

KINTERA INC.

ATTN: LEGAL DEPT.

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SAN DIEGO, CA 92121

EXAMINER

NGUYEN, TAN D

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/004,900

Applicant(s)

GRUBER ET AL.

Examiner

Tan Dean D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment filed Jan. 9, 2006 has been entered. Claims 1-29 are pending and are rejected as followed.

Claim Rejections - 35 USC § 112

1. Claim 29 recites the limitation "the fundraising organizations" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 29, 21-26, 28, 27, 1-11, and 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over eCOUNTRIES Article (December 4, 2000) in view of JEOPARDY Article (November 14, 1997) or SMITH.

As for independent method^{1/3} claim 29, eCOUNTRIES teaches a web-based method for building or increasing awareness about itself (its organization or company), comprising:

(a) providing a quiz (questions or test) to a participant (contestant) on a website, the quiz having one or more questions relating to eCOUNTRIES to help build awareness about eCOUNTRIES' business and promote eCOUNTRIES' business or mission ; and

(b) providing a reward (award or prize) to the participant (contestant) or winners of each "Global Challenge" contest {see page 1}. eCOUNTRIES fairly teaches the claimed invention except for donating the reward (award or prize) to a charity organization.

In a similar gaming environment, JEOPARDY is cited to show the teaching of:

(b) donating (or causing a donation of) the game reward (award or prize) of participant/contestant to charity or fundraising organization for worthy causes {see page 1, paragraph no. 3}. It would have been obvious to modify the teachings of

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eCOUNTRIES (step (b)) by donating (or causing a donation of) the game reward (award or prize) of participant/contestant to charity or fundraising organization for worthy causes as taught by JEOPARDY.

In a similar gaming environment, JEOPARDY is cited to show the teaching:

(b) donating (or causing a donation of) the game reward (award or prize) of participant/contestant to charity or fundraising organization for worthy causes {see page 1, paragraph no. 3}. It would have been obvious to modify the teachings of eCOUNTRIES (step (b)) by donating (or causing a donation of) the game reward (award or prize) of participant/contestant to charity or fundraising organization for worthy causes as taught by JEOPARDY.

In a similar gaming environment, SMITH is cited to show the teaching of well known fact that charities or non-profit organizations are typically required to raise money (fundraising) or solicit gifts or pledges in order to fund their operations [0004] and impulse for a donor to make a pledge is maximized or becomes more generous when a donor's financial situation suddenly improves due to winning a game [0005]. It would have been obvious to modify the teachings of eCOUNTRIES / JEOPARDY by including another scope in the preamble of eCOUNTRIES /JEOPARDY of fund-raising for charity organization and causing a donation to be made to charity since the donor is more generous to give to charities when winning game contest, as taught by SMITH above.

As for independent method^{2/3} claim 21, which has similar limitations (steps) as in claim 29 above, with additional limitations (a) and (b) in the preamble, these

limitations are inherently included or would have been obvious to a skilled artisan in the teachings of eCOUNTRIES / JEOPARDY. Note that the claim uses the open language "comprising" in the preamble which is open to include other elements or steps.

As for dependent claims 22, 23 (part of 21), which deal with well known gaming parameters, i.e. awarding player based on the performance in the game, these are taught in eCOUNTRIES page 1, or JEOPARDY Article page 1.

As for dep. claims 24, 25 (part of 21), which deal with well known on-line or web communication parameters between parties, i.e. using email or email address, these are well known parameters which are inherently included or would have been obvious to use them in view of the teachings of eCOUNTRIES / JEOPARDY, absent evidence of unexpected results.

As for dependent claims 26, 28 (part of 21), which deal with well known awarding parameters and donating campaign parameters, i.e. donating in the name of the participant, these are taught in JEOPARDY Article ("all selected by insiders").

As for Independent product claim 27, which is the computer program product to carryout the method claims 21 and 24 above, it's rejected over the computer program product of eCOUNTRIES / JEOPARDY to carry out the method claims 21 and 24 as rejected above.

As for independent method^{3/3} claim 1, which has similar limitations (steps) as in claim 29 above, with additional limitations (a) and (b) in the preamble, these limitations are inherently included in the teachings of eCOUNTRIES / JEOPARDY

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Article. Note that the claim uses the open language "comprising" in the preamble which is open to include other elements or steps.

As for dependent claims 2-3 (part of 1), which deal with the types of questions or quiz, it's well known that the Jeopardy quiz show contains a variety of subjects, i.e. history, business, sport, art, geography, politics, etc., and the selection of each subject depends on the contestant's desire or selection. Therefore, as for the selection of questions does not appear to be essential to the scope of the claimed invention and the specific selection of the topics, i.e. related to the organization or sponsor's mission or activities, would have been obvious as mere routine experimentation or if desired to further advertise or increase the awareness about the organization/sponsor.

As for dependent claims 4-5, 8-9 (part of 1), which are similar to dep. claims 24-25 above, they are rejected for the same reasons set forth in dep. claims 24-25 above.

As for dependent claims 6-7 (part of 1), which have the same limitations as in dep. claims 22-23 above, they are rejected for the same reasons set forth in dep. claims 22-23 above.

As for dependent claim 10 (part of 1), which has the same limitations as in dep. claim 28 above, it's rejected for the same reasons set forth in dep. claim 28 above.

As for dependent claim 11 (part of 1), which has the same limitations as in dep. claim 23 above, it's rejected for the same reasons set forth in dep. claim 28 above.

As for Independent system claim 12, which is the web-based interactive system to carry out the web-based interactive method claim 1 above, it's rejected for the

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same reasons set forth in claim 1 above (merely changing from “step for” to “means for”).

As for dep. claims 13-20 (part of 12), which have the same limitations as in dep. claims 2-11 (part of 1) above, they are rejected for the same reasons set forth in dep. claims 2-11 above.

Response to Arguments

6. Applicant's arguments filed on 1/9/06 with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Article "Empowerment: . Learning", July 1, 1996, is cited to teach the use of a business game to empower the employees about the company business, having fun while learning about the company business, and awarding the participant for answering the questions correctly. The company is paying about \$1,250 for each manager/employee to play and employee may win \$100.00 for answering questions correctly. The company could have given some of the expense cost to charity to obtain good will for worthy cause and receive tax deductible incomes while promoting the employees to learn about the business which well help the bottom line such as sale, profit, customer service, etc.

No claims are allowed.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

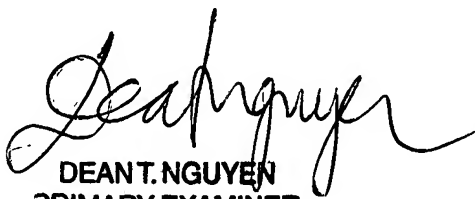
In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday.

Should I be unavailable during my normal working hours, my supervisor John Weiss can be reached at (571) 272-6812.

The main FAX phone numbers for formal communications concerning this application are (571) 273-8300. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn
May 1, 2006


DEAN T. NGUYEN
PRIMARY EXAMINER